

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

v.

Case No. 07-13822

DERRICK WILSON,  
LIEUTENANT ATKINS, CAPTAIN WALLACE,  
SISTER PEGGY DEVANEY, OAKLAND  
COUNTY JAIL ADMINISTRATOR, OAKLAND  
COUNTY JAIL CLASSIFICATION DEPARTMENT,  
MARY, and JOHN DOES,

HONORABLE AVERN COHN

Defendants.

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**ORDER**  
**ADOPTING REPORT AND RECOMMENDATION (Doc. No. 138)**  
**AND**  
**DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT (Doc., No. 109)**

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff is proceeding pro se and in forma pauperis (IFP). Plaintiff raised a host of claims regarding his incarceration at the Oakland County Jail (OCJ) from June 24, 2005 through July 6, 2006 as a pre-trial detainee. The case has been referred to a magistrate judge for pre-trial proceedings. Only plaintiff's First Amendment § 1983 claim and statutory claim regarding the provision of Kosher meals remain.

Before the Court is plaintiff's motion for default judgment against Derrick Wilson. The magistrate judge issued a report and recommendation (MJRR), recommending that the motion be denied as moot because Wilson has been served and the Clerk's entry of default against him has been set aside.

II.

Neither party has objected to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Plaintiff's motion for entry of default judgment is DENIED as moot.

SO ORDERED.

S/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: April 26, 2010

I hereby certify that a copy of the foregoing document was mailed to Daniel Horacek 218347, Oakland County Jail, 1201 N. Telegraph Rd., Pontiac, MI 48343 and the attorneys of record on this date, April 26, 2010, by electronic and/or ordinary mail.

S/Julie Owens  
Case Manager, (313) 234-5160